

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

TYRONE BENNETT,)	
Plaintiff,)	
v.)	No. 3:15-CV-4069-D
)	
DR. JOSEPH P. MINEI, ET AL.,)	
Defendants.)	

ORDER

After making an independent review of the pleadings, files, and records in this case, and the findings, conclusions, and recommendation of the magistrate judge, the court concludes that the findings and conclusions, as supplemented in this order, are correct. It is therefore ordered that the findings, conclusions, and recommendation of the magistrate judge, as supplemented in this order, are adopted.


The magistrate judge analyzed plaintiff's claims for denial of medical care under the Eighth Amendment. *See* Mag. J. Finds. & Concls. 3 ("Plaintiff's denial of medical care claim is governed by the 'deliberate indifference' standard of the Eighth Amendment to the United States Constitution."). The court cannot determine from the record, however, whether plaintiff is properly classified as a convicted prisoner (whose claim is analyzed under the Eighth Amendment) or a pretrial detainee (whose claim is analyzed under the Fourteenth Amendment). But even if he is a pretrial detainee, the "deliberate indifference" standard applies to his claims that an "episodic act or omission" resulted in an unconstitutional violation of his Fourteenth Amendment rights. Accordingly, with the supplemental finding and conclusion that plaintiff's medical care claims still fails if they are analyzed under the Fourteenth Amendment rather than the Eighth Amendment, the court adopts the findings, conclusions, and recommendation of the magistrate judge.

Plaintiff requests in his objections that the court appoint counsel to represent him. On July

29, 2016 the magistrate judge denied an earlier motion for appointed counsel as premature because the case was still at the screening stage. Because in his objections plaintiff has not demonstrated sufficient cause to alter the magistrate judge's decision, and because his case has not survived the screening process, the court denies his request for appointed counsel.

SO ORDERED.

November 21, 2016.


SIDNEY A. FITZWATER
UNITED STATES DISTRICT JUDGE